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February 7, 1997

BY HAND DELIVERY

Mr. William F. Caton
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Federal Communications Commission
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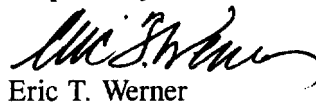
Re: *In the Matter of Newspaper/Radio Cross-Ownership Waiver Policy,*
FCC 96-381 (Notice of Inquiry in MM Docket No. 96-197) --
Comments of Pulitzer Publishing Company

Dear Mr. Secretary:

On behalf of Pulitzer Publishing Company ("Pulitzer"), and pursuant to paragraph 21 of the *Notice of Inquiry*, I enclose for filing an original and six duplicate copies of Pulitzer's Comments in the proceeding captioned above.

Please stamp and return to this office with the courier the enclosed receipt copy of this filing designated for that purpose. Should any question arise concerning this matter, kindly advise the undersigned.

Respectfully submitted,


Eric T. Werner

cc: Mr. Michael E. Pulitzer
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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Newspaper/Radio Cross-Ownership
Waiver Policy

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MM Docket No. 96-197

To: The Commission

**COMMENTS OF
PULITZER PUBLISHING COMPANY**

Respectfully submitted,

PULITZER PUBLISHING COMPANY

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	MM Docket No. 96-197
Newspaper/Radio Cross-Ownership)	
Waiver Policy)	

To: The Commission

COMMENTS OF PULITZER PUBLISHING COMPANY

PULITZER PUBLISHING COMPANY ("Pulitzer"), by its attorneys and pursuant to Sections 1.430 and 1.415 of the rules of the Federal Communications Commission ("FCC" or "Commission"),^{1/} hereby submits its comments in response to the *Notice of Inquiry* ("NOI") in the proceeding captioned above.^{2/} The Commission undertook the instant proceeding "in order to explore possible revisions to [the FCC's] policies concerning waiver of the newspaper/radio cross-ownership restriction." *NOI* at 1 ¶ 1.

I. INTRODUCTION AND SUMMARY

Pulitzer applauds the limited initiative represented by the *NOI* as a welcome step in the right direction; however, Pulitzer believes that a more far-reaching approach oriented to the complete elimination of the cross-ownership restriction would better serve the public interest. Whatever diversity or competition concerns that may have existed to justify adopting the restriction more than two decades ago, the changes in the marketplace wrought by the

^{1/} 47 C.F.R. §§ 1.430, 1.415 (1995).

^{2/} *Newspaper/Radio Cross-Ownership Waiver Policy*, FCC 96-381, released October 1, 1996 (*Notice of Inquiry* in MM Docket No. 96-197) ["*NOI*"].

proliferation of radio broadcast stations and the emergence of competition from a diverse array of new communications media render the restriction a regulatory anachronism which properly should be abandoned. Newspaper publishers possess the resources and expertise to provide high quality broadcast service to the public without any meaningful reduction in market diversity. To deny them the opportunity to do so would disserve the public interest. Accordingly, the Commission should quickly undertake a rulemaking proceeding to do away with the restriction entirely and, in the interim, adopt a policy presumptively favoring waivers on a greatly liberalized basis.

II. PULITZER'S INTEREST IN THE PROCEEDING

In the 118 years since Joseph Pulitzer started the company in 1878, Pulitzer has become a leader in newspaper publishing and in radio and television broadcasting by maintaining a heritage of journalistic and editorial excellence based on Mr. Pulitzer's charge to "always remain devoted to the public welfare, never be satisfied with merely printing news. . . ." Pulitzer's newspaper operations consist primarily of two major metropolitan dailies: the *St. Louis Post-Dispatch* in St. Louis, Missouri, and *The Arizona Daily Star* in Tucson, Arizona. The *Post-Dispatch* is a morning daily and Sunday newspaper serving primarily the greater St. Louis metropolitan area -- the 16th largest metropolitan statistical area in the United States. The *Daily Star* is a morning and Sunday paper serving southern Arizona. Tucson is the 73rd largest metropolitan statistical area in the country.

In addition, this past July Pulitzer acquired the Scripps League Newspapers, a privately-held company that publishes 14 daily newspapers in smaller markets in the Midwest and West^{3/}

^{3/} These include: the *Provo Daily Herald*, Provo, Utah (paid circulation -- 32,500); the
(continued...)

as well as some 30 non-daily publications including weeklies, shoppers, and niche publications. Through its subsidiary Pulitzer Broadcasting Company, Pulitzer operates nine network-affiliated television stations, two television satellite stations, holds the permit for a third television satellite station,^{4/} and operates three radio stations.^{5/} In the past, Pulitzer Broadcasting has participated in numerous proceedings before the FCC concerning a range of policy issues, and more than two decades ago Pulitzer participated in Docket No. 18110 in which the Commission adopted the newspaper/broadcast cross-ownership restriction.

III. THE COMMISSION SHOULD ELIMINATE THE NEWSPAPER-RADIO CROSS-OWNERSHIP RESTRICTION BECAUSE THE RULE IS NO LONGER NECESSARY TO PROTECT COMPETITION AND DIVERSITY

As noted in the *NOI*,^{6/} when the Commission adopted the newspaper-radio cross-ownership restriction in 1975, it stated that, like the other multiple ownership rules, the restriction stemmed from the Commission's desire to preserve diversity of viewpoints and

3/(...continued)

Santa Maria Times, Santa Maria, California (paid circulation -- 21,500); the *Napa Valley Register*, Napa, California (paid circulation -- 19,000); the *Coos Bay World*, Coos Bay, Oregon (paid circulation -- 16,500); and the *Arizona Daily Sun* in Flagstaff, Arizona (paid circulation - - 13,000).

4/ Pulitzer Broadcasting Company stations include: WDSU, New Orleans, LA; WESH, Orlando, FL; WGAL, Lancaster, PA; WLKY, Louisville, KY; WXII, Greensboro, NC; WYFF, Greenville, SC; KCCI, Des Moines, IA; KETV, Omaha, NE; and KOAT, Albuquerque, NM. In addition, Station KOAT operates satellite television stations KOCT, Carlsbad, NM and KOVT, Silver City, NM, and is the permittee of Station KOFT, Gallup, NM.

5/ These stations are Station KTAR(AM), KMVP(AM), and KKLT(FM) in Phoenix, Arizona.

6/ *NOI* at 2 ¶ 3.

economic competition.^{7/} However, whatever validity these principles may have had in 1975 to justify adoption of the cross-ownership restriction, they no longer remain valid. Two decades of development separate the mass-media marketplace of the *Second Report and Order* from that before the Commission today. During that time, established broadcast media (*i.e.*, radio and television) have flourished while the advance of new technologies has introduced an astonishing variety of new media technologies offering multiple channels and multimedia capabilities. Whatever shortcomings this brave new world of interconnected mass communication may exhibit, lack of diversity and competition are not among them. Accordingly, the Commission should declare victory and begin the process of dismantling the superfluous and discriminatory regulatory remnants of a bygone era.

A. A Richer Diversity of News, Information, and Entertainment Media and Providers Is Available Now Than At Any Other Time in History

As between diversity and competition, the Commission has underscored that its primary responsibility lies not with enforcement of the antitrust laws but rather with advancing "diversity in ownership as a means of enhancing diversity in programming service to the public." *Id.* at 1079. In distinguishing its role from those of other regulators, the Commission stated that:

[The Department of] Justice and others applying traditional anti-trust criteria are primarily interested in preserving competition in advertising. . . . Conversely, the diversity approach would examine the number of voices available to the people of a given area. The premise is that a democratic society cannot function without the clash of divergent views. It is clear to us that the idea of diversity of viewpoints from antagonistic sources is at the heart of the Commission's licensing responsibility.

^{7/} Amendment of Sections 73.34, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, 50 F.C.C.2d 1046, 1074 (1975) (*Second Report and Order* in Docket No. 18110) [*"Second Report and Order"*].

Id. The growth in all areas of the communications marketplace has generated an unprecedented diversification in programming services to the public.

As an initial matter, the traditional "core" mass media of radio and television have continued to flourish. As the *NOI* observes, the market has witnessed a 46 percent growth in the number of licensed radio stations since the cross-ownership restriction was adopted in 1975. *NOI* at 7 ¶ 9 (citing *Broadcasting and Cable Yearbook - 1995* at B-655). More recent data place the figure at 50 percent -- a real growth of more than 4,000 new stations. The 12,000 licensed stations now serving the United States represent an average of 240 stations per state and roughly one radio station per every 20,800 persons in the country.

With respect to radio in particular, Pulitzer urges the Commission to revisit its conclusion in 1975 that radio is not an important or meaningful source for news coverage or discussion of issues of public concern.^{8/} If it were ever true, this conclusion does not remain so today. The growth of all-news format stations and the news services provided by non-commercial stations (*e.g.*, NPR) provide a valuable and important resource for commuters and office workers. Moreover, the widespread proliferation and popularity of call-in "talk radio" programs belies the judgment that radio contributes little to public discourse on important events. To the contrary, some evidence would suggest that radio has become the preferred medium for public

^{8/} Quoting the *Second Report and Order*, the *NOI* notes that the Commission has previously concluded that television stations are more a source of news and information than radio stations and that, "[r]ealistically, a radio station cannot be considered the equal of either the paper or the television station in any sense, least of all in terms of being a source for news or for being the medium turned to for discussion of matters of local concern.'" *NOI* at 8 ¶ 11 (quoting *Second Report and Order*, 50 F.C.C.2d at 1083).

discussion of current events.^{9/} For these reasons, radio stations should be considered on an equal footing with newspapers and television stations when calculating the relevant voices for diversity purposes in a market.

Television has experienced even more significant expansion. Though not the subject of the instant *NOI*, it is noteworthy that the number of television stations authorized and on the air in the United States has grown 62 percent, from 952 in 1975 to 1,544 as of a year ago.^{10/} Moreover, the last 20 years have also seen the cable television industry come to maturity with service accessible by virtually all households and received by well over half of them.

By contrast, as the *NOI* observes, while these other core media have continued to grow, the number of daily newspapers has actually declined by more than 10 percent. *NOI* at 7 ¶ 9. Moreover, data from the National Association of Newspapers ("NAA") reveal that general circulation of newspapers has actually fallen in recent years.^{11/} All of this suggests that newspapers are experiencing genuine competition from alternative sources of news and information and that newspapers may not enjoy quite as "powerful [a] market presence" as the Commission believes,^{12/} thus making cross-ownership of less concern.

In the face of this, an astonishing variety of new media have come upon the stage to challenge the core media for advertisers' and subscribers' dollars. The Commission's MMDS spectrum auction, completed just a year ago, promises to resurrect that moribund service and

^{9/} For example, some analysts attribute the success of the Republican Party in the 1994 Congressional elections to momentum provided by conservative talk-radio personalities in local markets throughout the country.

^{10/} *Broadcasting and Cable Yearbook - 1996* at C-244.

^{11/} See Newspaper Association of America, *Facts About Newspapers, 1996*.

^{12/} See *NOI* at 7 ¶ 9.

poise "wireless cable" to become a genuine competitor to wired cable operators.^{13/} Also, Direct Broadcast Satellites ("DBS") have already made meaningful inroads in this area, with as many as five separate providers now competing for cable subscribers throughout the country. The telephone companies, recently liberated from their own antiquated cross-ownership restrictions by the Telecommunications Act of 1996, are also planning or aggressively undertaking entry into the video programming and distribution market. Other services both existing (*e.g.*, SMATV) and incipient (*e.g.*, DARS) represent further diversity in the range of voices represented by the electronic media alone. Finally, the recent explosion of the Internet as an electronic town square for discourse on all manner of subjects, and as a virtual trading area carrying an increasing amount of advertising, cannot be overlooked for its contribution to the diverse mix of voices available to the public.

Supplementing the core and newly-emerging electronic media available to consumers, but no less important to local diversity and competition are the scores of non-electronic news and advertising media such as the weekly newspapers which cover events in the suburban regions in many metropolitan areas; direct mail advertising; the yellow pages; shoppers and penny saver publications; metropolitan alternative newspapers and magazines such as the *City Paper* and *Washingtonian* in the District of Columbia; and the regional newspapers and regional editions of the national newspapers (*e.g.*, Wall Street Journal).

^{13/} Also, the Commission's *Declaratory Ruling and Order* authorizing the use of digital transmission technologies by MMDS providers holds the potential to expand competition in the newly emerging market for Internet access providers. See *Request for Declaratory Ruling on the Use of Digital Modulation by Multipoint Distribution Service and Instructional Television Fixed Service Stations*, FCC 96-304, released July 10, 1996 (*Declaratory Ruling and Order* in DA 95-1854).

B. Continued Enforcement of the Cross-Ownership Restriction in the Absence of its Diversity and Competition Rationales Would Impose an Inequitable and Discriminatory Burden on Newspaper Publishers and Broadcasters

As discussed, the rich diversity of voices that now exists in the marketplace vitiates to a large extent the rationales upon which the Commission rested the cross-ownership restriction in 1975. Preservation of the restriction in light of this change of circumstances in the marketplace would be arbitrary and unjust. However, this injustice assumes an even greater magnitude when the restriction is considered against the backdrop of recent changes in the regulatory environment. Specifically, recent actions by Congress and the Commission have liberalized ownership limitations and restrictions in virtually every area of the communications industry. The Telecommunications Act of 1996 increased the number of radio stations a single owner may hold in any individual market to as many as eight and eliminated the numerical limitations on nationwide ownership altogether. Moreover, the Act also eliminated the restrictions on local television/cable cross-ownership as well as telephone company entry into the video distribution marketplace. In the television rule making proceeding now underway, the Commission is evaluating whether to liberalize or abandon the one-to-a-market rule as well as relaxation of the television duopoly restriction.

In short, the newspaper/broadcast cross-ownership restriction stands virtually alone -- a regulatory impediment which inequitably singles out newspaper publishers and broadcasters to deny them the benefits of joint operations already available to other combinations of media enterprises. As discussed more fully below, the benefits that such newspaper/broadcast combinations could provide would both benefit the public interest and provide needed financial stability which would enable many distressed newspapers and/or broadcasters to compete more effectively against other information service providers which are not subject to like restriction.

IV. ELIMINATION OF THE CROSS-OWNERSHIP RESTRICTION WOULD SERVE THE EQUALLY IMPORTANT GOAL OF ASSURING "THE DELIVERY OF QUALITY BROADCASTING SERVICE TO THE AMERICAN PEOPLE"

In the *Second Report and Order* adopting the newspaper cross-ownership restriction, the Commission recognized that promoting "the delivery of quality broadcasting service to the American people" was a policy goal equal in importance to enhancing diversity and, indeed, one to which the nation's policy favoring competition would sometimes have to yield. *Second Report and Order*, 50 F.C.C.2d at 1074 (emphasis added). Confronted with the marketplace realities in existence in 1975,^{14/} the Commission weighed the balance between these competing objectives in favor of diversity.

The Commission recognized that "there can be no doubt that newspapers brought a pioneering spirit to broadcasting, first in radio and then in television" *Id.* However, the Commission determined that the new marketplace realities meant that "the special reason for encouraging newspaper ownership, even at the cost of a lessened diversity, [was] no longer generally operative in the way it once was." *Id.* at 1075. While tacitly commending the early efforts of newspapers, the Commission stated that it "is obliged to give recognition to the changes which have taken place and see to it that its rules adequately reflect the situation as it is, not was." *Id.* (emphasis added).

Now, just as in 1975, the Commission must acknowledge the changes which the technological advances of the last two decades have wrought in the media marketplace and adopt a rule which adequately reflects present circumstances. The *NOI* correctly surmises that cross-

^{14/} The Commission identified specifically, for example, the diminished number of channels available for application and the paucity of other media to compete with local broadcasters and major daily newspapers. See *Second Report and Order*, 50 F.C.C.2d at 1075 ¶ 101.

ownership arrangements -- even those not necessary for viability of either party -- may yield public interest benefits with only a negligible effect on competition and diversity. *See NOI* at 7 ¶ 9. The *NOI* suggests increased dissemination of news and information in the relevant market as one such possible benefit. *Id.* Pulitzer concurs that an increased quantity of news coverage and information programming is likely to be a valuable by-product of most newspaper/radio combinations, but the Commission should not lose sight of another, equally meaningful benefit: Pulitzer submits that liberating newspapers to bring their resources and expertise to broadcasting market in their communities will return dividends in higher program quality.

As discussed above, each day people in large, urban cities and small rural villages throughout the country receive, or have access to, entertainment, news and information programming from every manner of media, new and old, electronic and otherwise. Yet, while the quantity of information is great, the quality of service provided by all of these new entrants is less certain. The surfeit of diversity and competition begotten of these new media now beckon the Commission to adopt a rule which places greater emphasis on its goal of promoting the delivery of quality service to the public.

Even in 1975, a Commission study recognized that broadcast stations operated by newspaper owners carried a greater percentages of local news, public affairs, and other non-entertainment programming than did their independently-owned counterparts in the community. *Id.* at 1094 (Appendix C). Newspaper publishers remain, if not uniquely, then certainly ideally suited to provide such high quality service to the public, as Pulitzer's broadcast operations have demonstrated.

Local newspaper publishers possess the expertise and have made substantial investments to develop the resources to gather, compile, and present in an engaging, informative, and


entertaining manner, information concerning the news events, public affairs, and topics of general and human interest to the readers in their localities. Lifting the artificial impediment of the cross-ownership restriction, and enabling newspapers to integrate these existing news resources with a broadcast operation would engender efficiencies and operational economies such as collocated facilities, common staffing, and reduced equipment and maintenance expenses. The savings produced by these and other advantages of combined operations would then be available to improve existing capabilities and to fund experimentation and innovation in new programming areas -- services which independently-owned stations might not be able to provide.

V. CONCLUSION

FOR THE FOREGOING REASONS, Pulitzer respectfully urges the Commission expeditiously to commence a rule making proceeding to eliminate the newspaper/broadcast cross-ownership restriction and to free newspaper publishers to employ their considerable expertise and resources to provide high quality broadcast service to the public in their communities. In the interim, Pulitzer urges the Commission to adopt a policy presumptively favoring waivers on a greatly liberalized basis.

Respectfully submitted,

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